



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,294	06/06/2002	Keith Patrick Heaton	VAC.704.US	5734
30159	7590	08/25/2005	EXAMINER	
ATTN: LEGAL-MANUFACTURING KINETIC CONCEPTS, INC. P.O. BOX 659508 SAN ANTONIO, TX 78265-9508			LEWIS, KIM M	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,294

Applicant(s)

HEATON ET AL.

Examiner

Kim M. Lewis

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 2-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4 and 6 is/are rejected.
- 7) ☒ Claim(s) 5 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/28/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Detailed Action.

DETAILED ACTION

Response to Amendment

1. The amendment filed on 3/5/04 has been received. As requested, the specification and claims 2 and 5 have been amended.
2. Claims 2-7 are pending in the instant application.

Allowable Subject Matter

3. The indicated allowability of claims 2-4 is withdrawn in view of the newly discovered reference(s) to U.S. Patent Nos. 5,865,772 and 6,051,747. Rejections based on the newly cited reference(s) follow.
4. Claims 5 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Information Disclosure Statement

5. The information disclosure statement filed 3/24/05 has been received. Note the acknowledged from PTO-1449 enclosed herewith.

Drawings

6. The drawings were received on 3/5/04. These drawings are approved by the examiner.

Claim Rejections - 35 USC § 103

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 2-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,865,772 ("George") in view of U.S. Patent No. 6,051,747 ("Lindqvist et al.").

As regards claim 2, George discloses an apparatus capable of stimulating healing of wounds, which comprises an envelope (10) for receiving an affected part of the body, said envelope including a substantially air-tight cover (abstract, col. 3, lines 1-5 and col. 7, lines 5-7), dressing, bandage or cast within the cover, and connecting

Art Unit: 3743

means (pump 12) for connecting the interior of the envelope to a source of negative pressure, wherein said envelope is a glove, sock or sleeve.

George fails to teach that the dressing comprises a porous pad. However, Lindqvist et al. disclose a conventional dressing in the bandage/dressing art comprising a porous pad. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the dressing of George for the dressing of Lindqvist et al. since it appears that the invention of George would perform equally well with any type of dressing.

As regards claim 3, George discloses that the device is capable for use on the hand (col. 7, lines 33-36) George fails to teach that the device has an additional external cover of air-impermeable material. However, the examiner contends that it would have been obvious to provide an additional layer of the same material, thereby providing an external air-impermeable cover in order to strengthen the device. Duplicating the layer of the device to strengthen the device requires only routine skill.

As regards claim 4, the pump, which comprises a tube at its inlet and outlet, inherently communicates with the dressing (pad) since it communicates with the interior of the device.

As regards claim 6, the pump is a vacuum pump otherwise termed a suction pump.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (571) 272-

Art Unit: 3743

4796. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kim M. Lewis
Primary Examiner
Art Unit 3743

kml
August 22, 2005